

III) REMARKS

This Preliminary Amendment is filed prior to the initial examination of this application on the merits. In an Office action dated September 9, 2002 for the parent case to this continuation application (serial number 09/602,222), the Examiner objected to the Abstract of the disclosure because it is alleged to be too long. The Abstract has been amended accordingly.

The Examiner had also objected to the disclosure for several informalities set forth in that Office action. The Applicant thanks the Examiner for the careful reading of the specification and drawings and has made appropriate changes as suggested by the Examiner:

The reference to “network 40” has been changed to network 2 as indicated in the drawings.

The text “Data” accompanying items 52 and 54 in Figures 4 and 5, respectively, has been removed in the formal drawings submitted herewith, so that the terms “user’s reward account 52” and “user’s reward account 54” are not in conflict. It is noted that the term “data” refers generally to the storage media in which these accounts are stored.

The Examiner has stated that the passage in the specification at page 25, lines 12-27 is unclear since it may be construed to provide an increased number of points or an increased value in the number of points already awarded. As indicated in claim 28 of the application as filed, the number of points in a user’s reward point account may fluctuate as a function of the performance of the associated rewards points issuing entity. Thus, if the company performs well, it might elect to increase each user’s number of points already in their account by 10% (e.g. from 100 points to 110 points, thus increasing the value of the account). Similarly, the value attributed to each point might increase based on good company performance, such as by increasing the relative value of each point’s purchasing power from .01 cents to .02 cents. This also increases the value of the

account. Finally, one company may reward more points than another for the same purchase, such as when company A provides 100 points for buying their product and company B provides 120 points for buying their comparable product. It is respectfully submitted that each of these options may be provided without conflict of the others; that is, they are not mutually exclusive. Moreover, the Applicant has amended claims 14 and 28 to clearly recite that the number of points in the user's reward point account fluctuates as a function of the performance of the associated reward points issuing entity, and has added new claims 48 (method) and 49 (system) in which the value of the points in a user's reward point account fluctuates as a function of the performance of the associated reward points issuing entity.

The Examiner had also stated that Figures 2 and 3 in the parent application should be labeled with a legend such as "Prior Art" because it is only that which is old is illustrated. These drawings were corrected and new formal drawings were submitted with the filing of this continuation application. No new matter has been added.


The Examiner objected to the drawings because they include the following reference signs not mentioned in the description: Figure 1: 100, 200; Figure 4: 104, 120, 124, 130, 134, 140, 144, 154. The specification has been amended to include proper reference to all of the above except for reference numeral 154, which has been removed from Figure 4 in the formal drawings. No new matter has been added.

The drawings were objected to because Figures 6-10 lacked reference numbers. Reference numbers have been added to each step as requested, both in the specification as well as the newly submitted formal drawings.

Applicant has cancelled the original claims 1-29, and has added new claims 30-62. It is respectfully submitted that the pending claims are patentable over all of the prior art references cited in the parent case to this application (Ser. No. 09/602,222). Applicant presumes that the Examiner will duly consider all of the references cited in the parent application as specified by MPEP 609.

Applicant thus submits that the entire application is now in condition for allowance, early notice of which would be appreciated. Should the Examiner not agree with the Applicants' position, a personal or telephonic interview is respectfully requested to discuss any remaining issues and expedite the eventual allowance of this application.

Respectfully submitted,



Anthony R. Barkume
Reg. No. 33,831
Attorney for Applicant

Date: 9/21/04, 2004

20 Gateway Lane
Manorville, NY 11949
tel (631) 878-0526
fax (631) 980-7997
tony@barkume.com